Office - Supreme Court, U.S
FILED
JUN 10 1983
ALEXANDER L. STEVAS,
CLERK

No. 82-1649

IN THE

Supreme Court of the United States

OCTOBER TERM, 1982

HECTOR ANDRES MARROQUIN-MANRIQUEZ,

Petitioner,

v.

IMMIGRATION AND NATURALIZATION SERVICE,

Respondent.

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

PETITIONER'S REPLY MEMORANDUM

LEONARD B. BOUDIN
Attorney of Record
Rabinowitz Boudin Standard
Krinsky & Lieberman
30 East 42nd Street
New York, New York 10017

SHELLEY DAVIS
MARGARET WINTER
14 Charles Lane
New York, New York 10014

Attorneys for Petitioner

TABLE OF AUTHORITIES

CASES:

Page

American Communications Ass'n v. Douds,
339 U.S. 382 (1950).....3

Bastidas v. INS,
609 F.2d 101 (3d Cir. 1979).....13, 14

Cheng Fan Kwok v. INS,
392 U.S. 206 (1968).....11

Foti V. INS,
375 U.S. 217 (1963).....11

Hamad v. INS,
420 F.2d 645 (D.C. Cir. 1969).....12

INS v. Stevic
cert. granted, No. 82-973,
(Feb. 28, 1983).....1, 2,
3, 9, 14, 17

Kasravi v. INS
400 F.2d 675 (9th Cir. 1968).....12

McMullen v. INS,
658 F.2d 1312
(9th Cir. 1981).....6, 7, 9,
10, 11, 13

Reyes v. INS,
693 F.2d 597 (6th Cir. 1982).....10

Socialist Workers Party v. Attorney
General, 73 Civ. 3160 (S.D.N.Y.).....16

Soo Yuen v. INS,
456 F.2d 1107 (9th Cir. 1972).....13

United States ex rel. Dolenz v. Shaughnessy, 206 F.2d 392 (2d Cir. 1953).....12

United States ex rel. Kordic v. Esperdy, 386 F.2d 232 (2d Cir. 1967).....12

Universal Camera Corp. v. NLRB, 340 U.S. 474 (1951).....14

Wing Sing Chan v. INS, 631 F.2d 978 (D.C. Cir. 1980).....13

Wong Wing Hang v. INS, 360 F.2d 715 (2d Cir. 1966).....13

STATUTES AND RULES

The Immigration and Nationality Act of 1952 ("INA"), 66 Stat. 166 ff. as amended:

§106(a)(4) of the INA, 8 U.S.C. §1105a(a)(4).....10, 11, 12

§243(h) of the INA, 8 U.S.C. §1253(h).....10, 11, 12

OTHER AUTHORITIES

Department of State, Country Reports on Human Rights Practices for 1982, S. PRT. 98-1, 9th Cong. 1st Sess. (Jt. Comm. Print 1983).....8

Gordon, C. & Rosenfeld, H., Immigration Law and Procedure, ¶5.16b at 137 (Supp. 1983).....13

Handbook on Procedures and Criteria for Determining Refugee Status (Geneva, 1979).....4, 5, 6, 9

The Refugee Act of 1980, Pub. L. 96-212, 94 Stat. 102 (1980).....passim

United Nations Convention and Protocol Relating to the Status of Refugees in 1968 Articles 1 and 33, 19 U.S.T. 6257, T.I.A.S. No. 6557.....4, 7

IN THE SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1982

No. 82-1649

HECTOR ANDRES MARROQUIN-MANRIQUEZ,
PETITIONER

v.

IMMIGRATION AND NATURALIZATION SERVICE,
RESPONDENT

ON PETITION FOR A WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF
APPEALS FOR
THE THIRD CIRCUIT

PETITIONER'S REPLY MEMORANDUM

This petition should be granted and this case consolidated with INS v. Stevic, No. 82-973, because it will

materially aid the Court in defining the burden of proof facing refugees under the Refugee Act of 1980. Marroquin, unlike Stevic, presents a full factual record,[1/] which raises major issues of immigration law in dispute among the circuits. In addition, it presents two issues worthy of review which are not raised in the Stevic case.

The INS urges the Court to defer consideration of the instant petition on the grounds that the burden of proof issue is a "purely legal one" (Resp. Br. at 6), resolution of which would not be aided by consideration of the instant case. Nonetheless respondent concedes, as it must, that the meaning of both the

---

1/ Since Stevic was decided on the basis of a motion to reopen the deportation proceedings, Mr. Stevic made only a limited evidentiary showing on his asylum claim.

"clear probability" and "well-founded fear" tests can best be discerned in the context in which they are applied[2/] (Brief for Petitioner in Stevic, hereinafter "Pet. Br. in Stevic," at 8). It is precisely because the rich record in Marroquin clearly illuminates the areas in dispute that this case should be heard in conjunction with Stevic.

1. Both the INS and the Third Circuit contend that the Stevic court errs when it "attributes a stringency to the phrase 'clear probability' that ignores how it has been applied in practice" (Pet. Br. in Stevic at 11)

2/ Moreover this Court has frequently heard consolidated arguments in cases exposing different aspects of a single issue particularly in civil liberties matters. See, e.g., American Communications Ass'n v. Douds, 339 U.S. 382 (1950).

(Brief for Petitioner in Marroquin, hereinafter "Pet. Br.," App. A at A-7), and argue that "the terms 'well-founded fear' and 'clear probability' have always been equivalent." (Pet. Br. in Stevic at 49) (Pet. Br., App. A at A-7-8). To support this claim, the INS contends that the standard contained in the United Nations Protocol Relating to the Status of Refugees in 1968 and interpreted by the U.N. High Commission on Refugees in its Handbook on Procedures and Criteria for Determining Refugee Status (Geneva, 1979) (hereinafter "UN Handbook") is "precisely" the test which the INS has in fact always followed. (Pet. Br. in Stevic, at 35). In this regard, Marroquin illustrates both the harshness of the "clear probability" test and the substantial difference between the "clear probability" standard applied

by the INS and the "well-founded fear" standard embodied in the UN Protocol. Under the "well-founded fear" test described in detail in the UN Handbook, protection is guaranteed to anyone who can establish to "a reasonable degree," UN Handbook at ¶42, that he has "good reason to fear persecution." Id. at ¶45. A refugee can prove that his fear is well-founded by showing that he or his "friends," "relatives" or "members of the same racial or social group" have been threatened or have suffered persecution. UN Handbook at ¶43. The applicant's subjective evaluation of these incidents is relevant, id. at ¶41, as are the laws of the country of origin, and "the manner in which the laws are applied." Id. at ¶43. "If the applicant's account appears credible, he should, unless there are good reasons to the

contrary, be given the benefit of the doubt." Id. at ¶196.

Similarly, the Ninth Circuit held in McMullen v. INS, 658 F.2d 1312 (9th Cir. 1981), that evidence of a pattern of persecution is relevant in determining the likelihood of persecution upon deportation. Id. at 1318.

Neither the administrative agency nor the Third Circuit applied these criteria below. To both the INS and the Third Circuit, Marroquin's proof of a pattern of persecution of political activists like himself was not "probative" of whether his fear of persecution was well-founded.

The BIA, in findings wholly endorsed by the court below, concluded that: evidence of "unlawful arrest, disappearance, detention without trial, torture and killing of those engaged in

. . . the advocacy of unorthodox political beliefs" -- including Marroquin's colleagues and associates -- was "only . . . general background" (Pet. Br., App. B at A-27) the significance of which was negated by the fact that Marroquin had "incomplete or no knowledge of the full scope of [his colleagues'] activities." Id. (emphasis added).

These decisions directly conflict with both the mandate of the UN Protocol and with McMullen. By refusing to credit Marroquin's account of the pervasive pattern of persecution -- buttressed by six volumes of evidence including the testimony of two experts on conditions in Mexico and petitioner's case in particular -- and in the absence of "good reason" to doubt his credibility, the INS placed a burden on petitioner which was nearly impossible to

meet.[3] This stringent standard is

3/ The Nobel Prize-winning group, Amnesty International, reports that the same pattern of persecution continues in Mexico today. In its most recent report, Amnesty International expressed its

> concer[n] that the arrest and imprisonment of many people convicted on criminal charges were politically motivated and stemmed from their activities in trade unions or peasant groups. Many campesinos [peasant farmers] involved in land disputes and leaders of trade unions or slumdwellers associations were charged with offences such as murder, robbery or damage to property on the basis of confessions allegedly obtained under torture in incommunicado detention during the initial phase after arrest. In a number of cases confessions were retracted when proceedings entered their public phase. . . . [However] the courts often accepted such confessions in evidence and regarded them as sufficient proof to convict on criminal charges and impose long prison sentences.

Amnesty International Report 1982 at 152 (attached as Ex. I). Amnesty International's conclusion is fully corroborated by the Freedom House in its annual survey, Freedom in the World: Political Rights and Civil Liberties 1982 (attached as Ex. II). Both these groups are recognized as authorities on the human rights situation in Mexico by the United States Department of State. See Department of State, Country Reports on Human Rights Practices for 1982, S. PRT. 98-1, 98th Cong. 1st Sess. (Jt. Comm. Print 1983).

in direct contravention of the humanitarian mandate of the UN Protocol embodied in the 1980 Act.

Where a refugee has shown a pattern of persecution of members of a well-defined class and demonstrated membership in that class, he must be granted relief from deportation. See McMullen v. INS, supra; UN Handbook at ¶43. Because Marroquin provides a valuable factual context which points up the harshness of the burden of proof demanded by the INS in contravention of the UN Protocol, certiorari should be granted and this case consolidated with Stevic.

2. Contrary to respondent's assertion (Resp. Br. at 6), the limited abuse of discretion review conducted

below[4/] directly conflicts with decisions of both the Ninth Circuit, McMullen v. INS, 658 F.2d 1312, 1316 (9th Cir. 1981) and the Sixth Circuit, Reyes v. INS, 693 F.2d 597, 599-600 (6th Cir. 1982). In addition, it squarely contravenes the controlling statutory mandate of §106(a)(4) of the INA, 8 U.S.C. §1105a(a)(4).

Section 106(a)(4) provides that a finding of fact embodied in a final order of deportation may not be sustained unless "supported by reasonable, substantial and probative evidence on the record considered as a whole. . . ."

4/ The court below held: "On judicial review of a final order of deportation, the standard of review is whether the Board of Immigration Appeals' denial of petitioner's request for withholding of deportation under §243(h) of the Immigration and Nationality Act, 8 U.S.C. §1253(h) was an abuse of discretion." (Pet. Br., App. A at A-8).

Applications for asylum and withholding of deportation, adjudicated during deportation proceedings, are reviewable under the procedures established by §106(a)(4). See, Foti v. INS, 375 U.S. 217 (1963); Cheng Fan Kwok v. INS, 392 U.S. 206, 216, 217 (1968); McMullen v. INS, 658 F.2d 1312 (9th Cir. 1981). Thus the factual finding that a noncitizen's fear of persecution is not well-founded must be reviewed under the substantial evidence test.

Prior to the passage of the 1980 Act a noncitizen was eligible for withholding of deportation only if "in the opinion" of the Attorney General the noncitizen's life or freedom would be threatened. 8 U.S.C. §1253(h) (1979). Consequently the availability of relief was generally viewed as wholly discretionary and its

denial was reviewed solely for abuse. See United States ex rel. Dolenz v. Shaughnessy, 206 F.2d 392 (2d Cir. 1953); Kasravi v. INS, 400 F.2d 675 (9th Cir. 1968). But see, United States ex rel. Kordic v. Esperdy, 386 F.2d 232 (2d Cir. 1967) (eligibility for §243(h) relief was deemed to be a finding of fact and reviewed under the substantial evidence test); Hamad v. INS, 420 F.2d 645 (D.C. Cir. 1969) (same).

Since the 1980 Act eliminated any discretionary eligibility criteria and mandated withholding of deportation if the Attorney General "determines" that a noncitizen's life or freedom would be threatened, 8 U.S.C. §1253(h) (1980), §106(a)(4) requires that the factual finding of ineligibility be reviewed under the substantial evidence test.

McMullen v. INS, 658 F.2d 1312 (9th Cir. 1981); C. Gordon & H. Rosenfeld, Immigration Law and Procedure, §5.16b at 137 (Supp. 1983) ("The change in statutory language expands the role of the courts in judicial review by replacing the former abuse of discretion with a new standard requiring that the court review the record as a whole to determine whether the rejection of the persecution claim is supported by substantial evidence.").[5/]

Under the substantial evidence

5/ Under many of the other relief provisions of the Immigration Act, courts routinely review the finding of fact as to eligibility under the substantial evidence test. See Bastidas v. INS, 609 F.2d 101, 103 (3d Cir. 1979) (suspension of deportation); Wing Sing Chan v. INS, 631 F.2d 978, 980-81 (D.C. Cir. 1980) (adjustment of status); Wong Wing Hang v. INS, 360 F.2d 715, 717 (2d Cir. 1966) (suspension); Soo Yuen v. INS, 456 F.2d 1107 (9th Cir. 1972) (adjustment of status).

test, "the court may not determine the substantiality of the evidence by looking solely to the evidence which supports a finding but rather it 'must take into account whatever in the record fairly detracts from its weight.' Universal Camera Corp. v. NLRB, 340 U.S. 474, 488 (1951)." Bastidas v. INS, 609 F.2d 101, 103 (3d Cir. 1979). In light of the overwhelming evidence of record, especially under the lesser burden of proof established by Stevic, the finding that Marroquin lacks a well-founded fear of persecution cannot be sustained under a substantial evidence review. Therefore this Court should grant certiorari to review this important issue, which is not presented in Stevic.

3. Respondent argues that the immigration judge's refusal to issue a

subpoena duces tecum to the FBI legal attache in Mexico for documents on Marroquin did not deprive petitioner of due process because evidence showing "that FBI agents [in Mexico] had knowledge of, and had participated in, the Mexican government's persecution of political opponents . . . was hardly essential to petitioner's case" (Resp. Br. at 7). Even assuming arguendo that evidence of FBI involvement in the persecution of Mexican dissidents in general was not "essential" to petitioner, surely evidence showing FBI "knowledge of and participation in the Mexican government's persecution of" Marroquin would be essential, especially in light of the refusal of the immigration judge and the court to credit the substantial evidence of persecution presented.

In addition, INS reliance (Resp. Br. at 7) on the Third Circuit's statement that Marroquin has "already had the benefit of 50,000 FBI documents" obtained by an expert witness under the Freedom of Information Act (Pet. Br., App. A at A-15, n.11) is wholly misplaced. In fact, an expert witness for Marroquin testified that he had as yet been able to obtain only a handful of documents on the FBI's counterintelligence activities in Mexico and a dozen heavily redacted documents on Marroquin.[6/] Thus the Court should review this important issue to insure the fair administration of immigration law.

6/ The expert testified that he had analyzed approximately 50,000 FBI documents obtained by the plaintiffs in discovery proceedings in Socialist Workers Party v. Attorney General, 73 Civ. 3160 (S.D.N.Y.). The vast bulk of the documents had no bearing on FBI activity in Mexico or the Bureau's interest in Marroquin.

CONCLUSION

The writ of certiorari should be granted and the case heard in conjunction with Stevic.

June 9, 1983 Respectfully submitted,

LEONARD B. BOUDIN
Rabinowitz, Boudin, Standard, Krinsky & Lieberman, P.C.
30 East 42nd Street
New York, New York 10007
(212) OX7-8640

SHELLEY DAVIS
MARGARET WINTER
14 Charles Lane
New York, New York 10014
(212) 691-3270

Attorneys for Petitioner

Appendix I
Amnesty International Report

from:
AMNESTY INTERNATIONAL REPORT 1982
MEXICO

Amnesty International's primary concerns in Mexico continued to be irregular procedures for arrest, detention and trial. Reports were received during the year of deaths in custody, in some cases apparently as a result of torture, and also of "disappearances" and killings of prisoners.

The Mexican authorities did not admit to holding political prisoners. However, Amnesty International was concerned that the arrest and imprisonment of many people convicted on criminal charges were politically motivated and stemmed from their activities in trade unions or peasant

groups. Many campesinos (peasant farmers) involved in land disputes and leaders of trade unions or slum-dwellers' associations were charged with offences such as murder, robbery or damage to property on the basis of confessions allegedly obtained under torture in incommunicado detention during the initial phase after arrest. In a number of cases confessions were retracted when proceedings entered their public phase and the detainee was represented by defence counsel. The courts often accepted such confessions in evidence and regarded them as sufficient proof to convict on criminal charges and impose long prison sentences.

Estimates of the number of such cases varied, since some prisoners were

held in unacknowledged detention and details of the grounds for arrest of Indian peasant farmers in remote rural areas were difficult to obtain. In December the independent campesino organization Coordinadora Nacional Plan de Ayala (CNPA), National Coordinator Plan of Ayala, estimated that there were at least 600 campesino prisoners in Mexico, imprisoned for their support for peasant organizations formed in opposition to the officially recognized local groups. Some were said to have been held for up to six years without charge. Amnesty International was investigating these reports.

Many thousands of prisoners were freed in recent years under state and federal political amnesties. However,

such amnesties were apparently applied unevenly. Certain prisoners were freed while others accused and convicted on the same charges were still held. For example, all but one of a group of six prisoners held at Cuernavaca prison, Morelos, were freed by the end of 1981. All had been convicted on charges of "armed assault, robbery, homicide and criminal association". The prisoners claimed that they had been imprisoned for their role in a land dispute. Amnesty International had been investigating their cases, and continued to work on behalf of the remaining prisoner.

Throughout 1981 Amnesty International urged the Mexican authorities to provide information about a number of "disappeared" people whose

cases were being investigated by the organization. These included three members of the Mexican Communist Party arrested with nine others in Naucalpán, in the state of Mexico, in February 1981; trade union leader Arnulfo Córdova Lustre, arrested in March; two students and a teacher arrested in Ciudad Obregón, Sonora, in April; a group of seven students arrested in June; chauffeur Juan Ignacio Mendoza García, arrested in July; and Roque Reyes García, a worker at the National University and an active member of the the university's trade union, arrested in September by the security forces.

The Mexican organziation Comité Nacional Pro-Defensa de Presos, Perseguidos, Desaparecidos y Exiliados

Appendix I
Amnesty International Report

Politícos (CNPDPPDEP), the National Committee for the Defence of Prisoners, the Persecuted, Disappeared and Political Exiles, headed by Rosario Ibarra de Piedra, claimed that over a 10-year period some 500 people had "disappeared" after arrest. Rosario Ibarra de Piedra received a series of death threats; on 22 April Amnesty International appealed to the President to guarantee her physical safety. The committee believed that at least some of the "disappeared" were held at Campo Militar Numero 1, Military Camp No. 1, on the outskirts of Mexico City, the headquarters of the so-called Brigada Blanca, White Brigade. Although the government consistently denied the existence of the brigade, some

"disappeared" people who later reappeared gave highly detailed testimony about their detention and ill-treatment by this unit, and attested to seeing other "disappeared" people in custody in its headquarters.

The authorities did not respond to Amnesty International's repeated requests during 1981 for information about several recently "disappeared" people, who were feared by friends and relatives to be held at the camp. One such case was that of José Esequial Reyes Carrillo, who was removed from the Red Cross hospital in Polanco on 31 December 1981. According to the police he had been wounded during an attempted robbery the previous day. His relatives alleged that he was shot and then abducted because of his activities

as leader of the Valley of Mexico supporters of the Coordinadora Nacional de Trabajadores de la Educacción (CNTE), National Coordinator of Education Workers, which was attempting to form a teachers' union outside the control of the official teachers' union.

Misael Núñez Acosta, another leader of the Valley of Mexico group and a national leader of the CNTE, was shot and killed on 30 January 1981. Groups in Mexico pressed the government to take action on allegations by those accused of the killing that they had been hired by officials of the government-sponsored teachers' union. The Brigada Blanca was alleged to be responsible for several other deaths in 1981, including that of Rodrigo Carrasco López, Assistant

Director of Public Works in Juchitán, who was found shot dead and marked by torture on 10 October 1981.

Amnesty International has been studying repeated allegations that a number of regular national and state police units were also responsible for arbitrary detentions, torture and killings. In May the Policía Judicial, Judicial Police, was named as responsible for the killing of Hilario Ramírez Morales, a student leader in the state of Guerrero. In June the Attorney General of the state of Mexico, Carlos Kuri Assad, said that there were "illegal" police groups operating in the state. He maintained that although they were "illegal" they were "not unconstitutional", as they were "useful"

to society. In mid-1981 social worker Florentino Espinoza Gutiérrez, who had been arrested in Oaxaca in May, testified that he had been tortured in police custody.

Amnesty International continued to receive reports of arbitrary detentions, torture and killings by regular army units, acting in conjunction with local landowners and unofficial paramilitary units. Among the victims of such abuses were pobladores (slum-dwellers) on the outskirts of Mexico's major cities, and peasants.

Amnesty International appealed on behalf of several members of the Toztzil community of Venustiano Carranza in Chiapas arrested by the army in April 1981. Clashes at the Venustiano Carranza

community appeared related to attempts by the authorities to stop campesinos from reclaiming land which they claimed had been legally granted to them in 1965. Conflict erupted again in 1981 after an alleged attempt by the officially-supported campesino group in Chiapas to impose their own people at the head of a local cooperative. Among those arrested was CNPA supporter Candelaria Mendoza, held with her two sons aged five months and five years. She was accused of damage to property after she had participated in a protest at the killing of a friend. Replying to Amnesty International's request for information about those arrested, state officials wrote that one of the group, Professor Arturo Alborés Velasco, a member of the

Appendix I
Amnesty International Report

School of Architecture at the Universidad Nacional Autónoma de México (UNAM), National Autonomous University of Mexico, was held in Tuxtla Gutierres prison and had been charged with criminal offences. When Professor Alborés and other members of the group held in prison went on hunger-strike in July to protest against their continued detention, they were removed to a cellar in the prison where they were reportedly tortured. People who went on hunger-strike in support of the group were arrested in states throughout the country, including Veracruz, Michoacán, San Luis Potosí, Chiapas, Hidalgo and Puebla. Some were believed to be still in detention at the end of the year. Others were later reported to have "disappeared"

including 16 campesinos detained in Puebla on 16 July.

In the state of Veracruz regular army units were repeatedly cited as responsible for human rights violations including the killing of non-violent demonstrators and villagers living on land claimed by large landowners or businesses.

Amnesty International was also concerned about reports from Oaxaca, where the Triqui Indian Association reported that at least 26 innocent campesinos had been jailed in Juxtlahuaca, Putla and Oaxaca after disputes with forestry companies who wished to take the peasants' land for lumbering. In November the Triqui's negotiator, Juan Martínez of the

Appendix I
Amnesty International Report

CNPA-suppoirted Movimiento de Unificación y Lucha Triqui, Movement for the Unification and Struggle of the Triquis, "disappeared" as he was returning from talks with the Minister of the Interior in Oaxaca.

During the year Amnesty International appealed for information on the whereabouts of peasant farmers Andrés, Natalio and Paulino Hernández Cerecedo, missing since their abduction by the army in May 1981 in Chapaltepec, municipality of Calnalí, in the state of Hidalgo. Three other peasant farmers released from Huejutla prison in the state of Hidalgo in June all reportedly bore marks of torture.

In June the bishop of Tehuantepec, Oaxaca, Arturo Lona Reyes, declared

the excommunication of all people who directly or indirectly practiced torture. Archbishop Méndez Arceo of Cuernavaca had similarly excommunicated torturers on 17 April.

Amnesty International was seriously disturbed by reports of the mass expulsion back to Guatemala of Guatemalan refugees who had fled the violence there to seek asylum in Mexico. Following international protests at the expulsion in April of 475 Guatemalans, a number of Mexican officials publicly stated that future applications for asylum from Guatemalans would be dealt with on an individual basis. Nonetheless, a further mass expulsion of 1,855 Guatemalans was reported in July. On 25 August, and again on 25 September, Amnesty International

wrote to the Mexican Government about these expulsions. It noted that one person had reportedly been killed on returning to Guatemala, and called on the Mexican authorities not to send people back to countries where Amnesty International believed they faced torture or death. Amnesty International also asked for information about the precise status and treatment of some 50 Guatemalans who had been allowed to remain in Mexico, but were reportedly confined in isolation in Cuautla, Morelos.

Amnesty International also expressed concern during 1981 at the treatment of a number of other foreign nationals in Mexico. On 31 July former Venezuelan guerrilla leader Douglas Bravo was

arrested by the Policía Federal de Seguridad (PFS), Federal Security Police. After his release Douglas Bravo, then a leader of a legally-recognized Venezuelan political party, displayed to a news conference marks which he said were the result of torture by the PFS. He stated that he had been tortured while being interrogated about the reasons for his visit to Mexico and about guerrilla activities throughout Latin America. On 18 November Amnesty International asked the authorities to assure the physical safety of a group of detainees which included Argentine Roberto Guevara and Julio Santucho. They claimed that they had been tortured with electric shocks after being detained on charges of having planned and participated in the attempted

kidnapping of the niece of a Mexican presidential candidate. These accusations were categorically denied by all but one of the detainees.

On 23 March 1981 Mexico deposited instruments of accession to the International Covenant on Economic, Social and Cultural Rights, and the International Covenant on Civil and Political Rights, subject to a number of interpretations and reservations.

Appendix II
Freedom in the World

from:

FREEDOM IN THE WORLD

by Raymond D. Gastil

MEXICO

Economy: capitalist-statist

Polity: decentralized dominant party

Population: 71,300,000

Political Rights: 3

Civil Liberties: 4

Status of Freedom: partly free

An ethnic state with potential subnationalities.

Political Rights. Mexico is ruled by a governmental system formally modeled on that of the United States; in practice the president is much stronger and the legislative and judicial branches much

weaker. The states have independent governors and legislatures. The ruling party has had a near monopoly of power on all levels since the 1920s. Political competition has been largely confined to factional struggles within the ruling party. However, in 1979 new parties participated, and the new election law gave twenty-five percent of the seats to minor parties by proportional representation; the resulting congress showed unusual independence. Further progress in opening the system to other parties was reflected in the presidential election of mid-1982. Voting and campaign irregularities have been common, particularly on the local level. The clergy are not allowed to participate in the political process.

Subnationalities: There is a large Mayan area in Yucatan that has formerly been restive; there are also other smaller Indian areas.

Civil Liberties. The media are mostly private. Although they have operated under a variety of direct and indirect government controls (including take-overs), they are generally free of overt censorship but operate under government "guidance." Literature and the arts are free. The judicial system is not strong. However, decisions can go against the government; it is possible to win a judicial decision that a law is unconstitutional in a particular application. Religion is free. Widespread bribery and lack of control over the behavior of security forces greatly

limits operative freedom, especially in rural areas. Disappearences occur, detention is prolonged, torture and brutality have been common. Private economic rights are respected; government ownership predominates in major industries. Access to land continues to be a problem despite reform efforts. Nearly all labor unions are associated with the ruling party. There is a right to strike. Some union and student activity has been repressed. Critical human rights organizations exist.

Comparatively: Mexico is as free as Malaysia, freer than Nicaragua, less free than Colombia.

END OF DOCKET